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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,303	01/31/2001	Larry M. Proctor	19742-001	8508

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EXAMINER

MCELWAIN, ELIZABETH F

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,303

Applicant(s)

PROCTOR, LARRY M.

Examiner

Elizabeth F. McElwain

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 and 56-71 is/are pending in the application.
- 4a) Of the above claim(s) 16-50, 53 and 65-71 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 51, 52 and 56-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 14, 2005 has been entered.

Claims 65-71 are newly submitted.

Claims 10 and 57 are newly amended.

Claims 1-53 and 56-64 are pending.

Election/Restrictions

Newly submitted claims 65-71 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are drawn to a population of seeds comprising seeds having distinct characteristics from those originally claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 65-71 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

1. This application contains claims 16-50, 53 and 65-71 drawn to a nonelected invention. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

Claims 16-50, 53 and 65-71 are withdrawn.

Claims 1-15, 51, 52 and 56-64 are examined on the merits.

Claim Rejections - 35 USC § 112

2. Claims 59 and 62, and claims 60, 61, 63 and 64 dependent thereon, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement for the reasons of record set forth in the last Office action.

3. Patent Owner's arguments filed October 14, 2005 have been fully considered but they are not persuasive. Patent Owner argues that it is not required that amendments be phrases that are "recited *ipsis verbis* in the description" (page 9 of the response). Patent Owner asserts that one skilled in the art would understand that a distribution of color in a population of seed would be inherent, stating that "a deposit may be claimed according to the description of properties that are inherent to the deposit, even if those properties are not fully disclosed *in haec verba* in the original specification", citing *In re Nathan*, 328 F. 2d 1005, 1008-1009, 140 USPQ 601, 604 (CCPA 1964).

4. The Examiner maintains that the rejection is proper given that no support was provided in the specification as originally filed for the present wording of the claims, as stated in the last Office action, and inherency may not be established by probabilities or possibilities. See MPEP

2163.07(a). Furthermore, *In re Nathan* relates to a chemical compound, which is not analogous to the present claims drawn to bean seeds.

5. Claims 1-15, 51, 52 and 56-64 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, for the reasons of record set forth in the Office action of September 25, 2002.

6. Patent Owner's arguments filed October 14, 2005 have been fully considered but are not persuasive. Patent Owner asserts that the Examiner has not met the burden of a preponderance of evidence with regard to why a person skilled in the art would not recognize that the invention has been described. Patent Owner continues by listing several characteristics as uniform and stable, including the seed coat color and hilar color. Patent Owner argues that there is normal variation within a cultivar, and that the Examiner is "imposing a stringent test of stability and uniformity that borders on requiring clones", while also stating that "the Office is not requiring exact genetic copies" (page 12 of the response). In addition, Patent Owner argues that possession of the invention is demonstrated by the deposit and the drawings/photos of the patent application, and that a sufficient and relevant description of the Enola cultivar has been provided, such that a potential infringer would know if they were infringing the patent claim(s). Patent Owner asserts that he does not "intend to claim a large genus of genotypes and phenotypes that have not been described in the specification" (page 13 of the response). Finally, Patent Owner states that it would be an inequitable standard to require identification of a genetic sequence to form the basis for a plant phenotype.

Patent Owner further states that there is a typographical error in the specification, causing it to read that “The field bean cultivar Enola will *not* be described”, which should read “*now* be described”. However, the Examiner notes that Patent Owner has not yet amended the specification to correct this, if it is indeed an error.

The Examiner maintains that the Declaration of Gil Waibel previously filed provides evidence of the large degree of non-uniformity of the deposited seeds. As stated in the last Office action, in the present case, Patent Owner has not identified what feature or features distinguish the claimed seeds, which Patent Owner asserts have variation in phenotype, from other known *Phaseolus vulgaris* seeds. The Examiner maintains that Patent Owner has not set forth what the uniform and stable characteristics are that distinguish the claimed seeds from other known *Phaseolus vulgaris* seeds. The Examiner maintains that Patent Owner has provided evidence that the deposited seeds have many traits that are not stable and uniform, and Patent Owner has not identified what trait or traits are uniform and stable which distinguish the claimed seeds from others of the same species. The Examiner maintains that the claimed invention is not described, and that Patent Owner’s arguments suggest that by the deposit, Patent Owner intends to claim a large genus of genotypes and phenotypes that have not been described in the specification.

In addition, the Examiner maintains that the Federal Circuit has recently held that the written description standard applies to compounds other than DNA. See *University of Rochester v. G.D. Searle & Co., Inc.*, 358 F.3d 916, 925, 69 USPQ2d 1886, 1893 (Fed. Cir. 2004), where it states that “the statute applies to all types of inventions”. The Federal Circuit court also held that written description applies to methods as well as products, where it states: “Regardless whether a

compound is claimed per se or a method is claimed that entails the use of the compound, the inventor cannot lay claim to that subject matter unless he can provide a description of the compound sufficient to distinguish infringing compounds from non-infringing compounds, or infringing methods from non-infringing methods.” Id. At 926, 69 USPQ2d at 1894. The Examiner is not requiring that a genetic sequence must be provided to meet the written description requirement.

7. Claims 1-15, 51, 52 and 56-64 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, for the reasons of record set forth in the Office action of December 2, 2003.

8. Applicant's arguments filed October 14, 2005 have been fully considered but they are not persuasive. Patent Owner argues that the Enola cultivar is a plurality of cultivars that share one or more uniform traits, saying that the heterogeneity of the seeds is on an individual basis, stating that they are not clones. Patent Owner further states that the population of seeds has “a normal variation in size, shape, color and other traits; the seeds are not phenotypically varied, but they display normal phenotypic variance” (page 14 of the response). Patent Owner asserts that one of skill in the art could reproduce the claimed invention by growing the deposited seed. In addition, Patent Owner mentions that the Declaration of Gil Waibel references charts 15 and 31 that show the peak occurrence of Enola seed coat color is in the claimed range of 7.5Y 8.5/4 to 7.5Y 8.5/6,

even though the declaration also asserts that most of the seed was in the color range described in the PVP application, which is different from the range of 7.5Y 8.5/4 to 7.5Y 8.5/6.

9. The Examiner maintains the rejection. The Declaration of Gil Waibel describes variation in Enola, see beak orientation (#26, #35) and pod color (#31). With regard to the primary color of seed coat (#42) it is asserted that "most" of the seed was in the color range of Munsell 5Y 8.5/4 to 7.5Y 8/8, which is different from the seed color range claimed and disclosed in the specification, and the seed weight (#48) is quite different for Enola in the two studies cited. The Examiner maintains that Patent Owner has not identified any selected traits that are stable and uniform and that differentiate the claimed seeds and plants from other known *Phaseolus vulgaris* seeds and plants. Again, the Examiner maintains that Patent Owner and the Declaration of Gil Waibel both have described the deposited seeds as varied in phenotype, as stated above. Patent Owner has not provided guidance with regard to how one skilled in the art would select from the heterogeneous seeds that are deposited to identify individuals that would be considered to be Enola yellow beans. The Examiner maintains that it would require undue experimentation by one skilled in the art to practice the claimed invention, in view of the heterogeneity of the seeds of the deposit, and for the reasons already of record. As stated in the last Office action, the purpose of the deposit of seed is to provide a reproducible means of making a unique plant that cannot be recreated based on a patent disclosure. Therefore, the deposit of a phenotypically varied population of seeds does not allow one of skill in the art to reproduce the same invention. Each sample of seed obtained from the ATCC would consist of a different mixture of seed and result in a different heterogeneous population of plants.

10. Claims 1-7, 57 and 59-64 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for the reasons of record set forth in the last Office action.

Claim 1, and claims dependent thereon, remain indefinite in view of Patent Owner's statement that the seeds deposited with the ATCC are not seeds of a genetic entity.

11. Patent Owner's arguments filed October 14, 2005 have been fully considered but they are not persuasive. Patent Owner asserts that the deposited seeds are of a single cultivar, which is "a plurality of individuals that have unique genetic profiles" (page 14 of the response). Patent Owner states that the validity of the rejection is not understood. Patent Owner states that not agreeing or disagreeing that the cultivar contains a uniform genotype has to do with the definition of genotype, which includes all or part of the genetic constitution of an individual or group, and that the phenotype results from the interaction of the genotype with the environment. Patent Owner argues that the Enola phenotype is stable and uniform in multiple environments and that it must follow that part of the genotype is uniform.

12. The Examiner maintains that it is unclear what the uniform and stable selected characteristics in the claimed plants and seeds are, given that Patent Owner has stated on the record that the seeds are heterogeneous in phenotype and there is also evidence of genetic diversity in the seeds that are deposited as ATCC Accession number 209549. Patent Owner continues to argue that a uniform genotype only requires that part of the genotype is uniform. It is clear that the specification does not define the full range of seed phenotypes and genotypes that are comprised in the deposit, such that one skilled in the art would be able to determine what

materials would infringe the claim. Thus, it would not be possible for potential infringers to reasonably determine if a particular plant or seed was within the claimed scope.

13. The rejections of Claims 10 and 57 as indefinite for lack of proper antecedent basis are withdrawn in view of the amendments of the claims.

14. Claim 59, and claims 60 and 61 dependent thereon, are indefinite in the recitation of “wherein the yellow color plotted as a distribution in the population of the seed of sufficient number for purposes of ATCC deposit has a peak occurrence ranging”.

Patent Owner asserts that the rejection was not fully and clearly stated. The Examiner maintains the rejection because the phrase is not comprehensible. It is not clear what is intended, and it is not clear what yellow color the seed could be. The metes and bounds of the claims are not clearly set forth.

Claim 62, and claims 63 and 64 dependent thereon are indefinite in the recitation of “as evidenced by a substantially uniform yellow color of the seed coat, wherein the substantially uniform yellow color plotted as a distribution in a population of the seed of sufficient number for purposes of ATCC deposit has a peak occurrence ranging . . .”

Patent Owner asserts that the rejection was not fully and clearly stated. The Examiner maintains the rejection because the phrase is not comprehensible. It is not clear what is intended, and it is not clear what yellow color the seed could be. The metes and bounds of the claims are not clearly set forth.

Claim Rejections - 35 USC § 102/103

15. Claims 1-15, 51, 52 and 56-64 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over any of CIAT G13 094, G02 400, G22 215, G22 227, 622 230, G11 891 or Kaplan (Guitarrero Cave, p. 146, 1980), or Hernandez-Xolocotzi et al (Seminar Series 2E, CIAT, p. 253-258, 1973) or Voysest (Varieties of Beans in Latin America, CIAT, p. 47-50, 1983) or Gepts (The Genetic Resources of Phaseolus Beans, p. 602, 1988) or Azufrado Peruano 87 (Secretaria de Agricultura Y Recursos Hidraulicos; Solicitud de Inscripcion en el Registro Nacional de Variedades de Plantas, Registration No. FRI-150288-042, September 25, 1987 at No. 52 an 53, in the IDS filed November 15, 2002) for the reasons of record set forth in the prior Office actions, and in view of the documents filed June 2, 2004.

16. Patent Owner's arguments filed October 14, 2005 have been fully considered but they are not persuasive. Patent Owner asserts that the basis for the obviousness rejection is not articulated, and there is no suggestion as to what bean would be combined to make the claimed inventions obvious.

17. The Examiner maintains that the rejection under 35 USC 102 or 103 is appropriate when the USPTO does not have sufficient facts to determine whether the claimed products are "inherently the same". The USPTO cannot conclude that the subject matter would have been obvious since it cannot determine whether the products differ. The Examiner is not in a position to make either a conclusion of inherency/anticipation or obviousness since the record does not allow one to determine if and how the claimed subject matter differs from the prior art. Accordingly, the burden shifts to applicant to provide evidence that the prior art would neither

anticipate nor render obvious the claimed invention. Note the case law of *In re Best* 195 USPQ 430, 433 (CCPA 1977).

Patent Owner argues that the rejection over the Peruano 87 reference should be withdrawn given that it was relied upon in the testimony of Dr. Pfeiffer, who is in litigation with Patent Owner, and given that the testimony “goes every which way” (page 17 of the response). The Examiner maintains that the testimony of Dr. Pfeiffer was not solely relied upon in formulating the rejection.

In addition, Patent Owner argues that the Examiner has based the rejections on phantom references of Kaplan, Hernandez, Voysest, Gepts and Peruano 87, wherein the beans that the Office is requiring Patent Owner to test are unavailable to them. The Examiner maintains that the beans taught by Voysest are Azufrado Peruano. The Azufrado Peruano beans were available to Pallottini et al, as stated in the last Office action. It is unclear why Patent Owner has not been able to obtain the same. Patent Owner’s assertions that these beans are unavailable are not persuasive.

Patent Owner also argues that the Examiner should be persuaded to withdraw the rejections over G13094, G22215, G22227, and G22230 by the previously filed Declaration of Polly Proctor. The Examiner maintains that the Declaration of Polly Proctor is not persuasive for the reasons of record, including that Polly Proctor is not a disinterested third party, given that she is related to the Patent Owner, as stated in the last Office action. In addition, the Examiner maintains that the rejection is proper in view of the evidence provided in the Polly Proctor Declaration, as stated in the last Office action. Each of the color designations set forth in the Polly Proctor Declaration fall within the range set forth in the claims, given that the claims read

on any *Phaseolus vulgaris* seeds having seed coat color “about 7.5Y 8.5/4 to about 7.5Y 8.5/6” or having hilar ring color from about 2.5Y 9/4 to about 2.5Y 9/6. Patent Owner states that a color match to a square in the Munsell book was not always exact, and therefore, “about” was used in the patent claims. The Examiner maintains that given the use of “about” in the claims, the claims are clearly anticipated by prior art seeds as demonstrated by the Declaration of Proctor, as set forth in the last Office action.

Furthermore, Patent Owner has asserted previously that the seeds of the deposit vary in color, size and shape. Therefore, it remains uncertain what the characteristics of the claimed seeds are, and how the claimed seeds differ from any of the prior art seeds. In fact, in the response of March 25, 2003 Patent Owner describes the phenotypic variation of the deposited seed, and the Declaration of Gil Waibel describes variation in Enola, see beak orientation (#26, #35), pod color (#31). With regard to the primary color of seed coat (#42) it is asserted that “most” of the seed was in the color range of Munsell 5Y 8.5/4 to 7.5Y 8/8. In view of the broad range of color identified by Waibel, it remains clear that the prior art cultivars anticipate the claims, as made evident by the color designations set forth in the Declaration of Polly Proctor.

Patent Owner’s arguments stating that differing results of Bassett and Gepts for the parentage of Enola is not a concern, since breeders select by phenotype instead of genotype is not understood. The Examiner maintains that it was Patent Owner that attempted to use the SGY selectable traits in arguments that Enola has a new selectable trait. The Examiner merely pointed out that the SGY trait could not be relied upon as a distinguishing feature of the claimed seed for the reasons set forth in the last Office action.

With regard to the Pallottini et al reference, Patent Owner asserts that these results concur with Patent Owner's position that Enola resulted from a selection process on beans that were most likely of Mexican origin. Patent Owner then explains why the Pallottini research used selective and biased data by stating that it is "a regurgitation of the Expert Report of Paul Gepts, Ph.D." (page 21 of the response). Patent Owner asserts that the study selected certain Enola seeds from the ATCC deposit, while the researchers knew that there were at least two haplotypes in the sample. Patent Owner argues that the results were biased toward similarity between Enola and Azufrado Peruano 87, because the research selected for the Enola seeds that were the same.

The Examiner maintains that Patent Owner is admitting that the seeds of the Enola ATCC deposit are anticipated by Azufrado Peruano 87. In addition to the prior art admission, Patent Owner is stating that the Enola ATCC deposit comprises multiple haplotypes, which appear not to be a selected cultivar that would have stable and uniform trait(s) that distinguish the deposited seeds from other known bean cultivars.

Patent Owner also states that "Even after biasing the results, the authors found only a 30% chance that Enola resulted from selection without hybridization within the Azufrado Peruano 87 cultivar." The Examiner is unclear as to where this result is found in the reference and as to what the relevance of this statement is with regard to the novelty of the claimed Enola bean.

Furthermore, Patent Owner asserts that the bean seeds taught by Kaplan, Hernandez-Xolocotzi and Voysest differ from the claimed Enola bean seeds by average size or grams/100 seeds, for example. However, the Examiner maintains the rejection given that it is not shown that these differences are statistically significant. And in view of the Patent Owner's statements

that there is heterogeneity within the Enola bean seed of the deposit, the meaning of these comparisons is unclear. In addition, Patent owner has not established that average size or weight are stable and uniform characteristics that distinguish the claimed Enola cultivar.

Information Assessment

The Examiner maintains that Requirement for Information Under 37 C.F.R. 1.105, as set forth in the last Office action.

Patent Owner argues that the search done by Attorney Flores is not available to Patent Owner. The Examiner maintains that while the search done by Attorney Flores may not be available to Patent Owner, because the inventor purchased the field bean seeds in Mexico and brought them to the United States, it is reasonable to expect that Patent Owner or assignee can readily obtain information regarding the public use or sale of said seeds in the United States at the time of the original purchase and/or prior to the filing date of the instant patent.

In addition, Patent Owner argues that the conflict in statements regarding when the claimed Enola bean was bred and selected for was clarified in the last response in stating that the Mexican beans were not acquired in 1994, as was stated in both the patent and in the application for Plant Variety Protection Act Certificate. Patent Owner appears to be saying that the date of 1994 was an error that occurred in both the patent and the application for Plant Variety Protection Act Certificate, and that Patent Owner had mentioned this in the last response.

The Examiner is unclear with regard to where in the last response the statement was made that an error was made with regard to the 1994 date provided in both the patent and in the application for Plant Variety Protection Act Certificate. Patent Owner did not point to a document or page number of the last response where this statement could be found.

Furthermore, if Patent Owner is stating that the date for beginning development of Enola bean of 1994 and the manner in which it was derived is in error in both the patent and in the application for Plant Variety Protection Act Certificate, then information with regard to the circumstances surrounding the error must be provided. The Examiner maintains that the Requirement for Information, as set forth in the previous Office action, has not been met for the reasons set forth above. Patent Owner is required to provide any information available regarding the sale within the ambit of your control or that of a third party or the public use in the United States of the field bean seeds originally obtained in Mexico.

No claims are allowed.

Conclusion

18. This is an RCE of applicant's earlier Application No. 09/773,303, which is merged with reexamination control no. 90/005,892. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth F. McElwain whose telephone number is (571) 272-0802. The examiner can normally be reached on increased flex time, and usually from 9:00 AM to 5:30 PM, Monday to Friday.

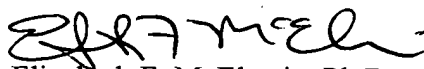
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFM



WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER



Elizabeth F. McElwain, Ph.D.
Primary Examiner
Art Unit 1638